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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,757	02/20/2001	Joshua Dickinson Kraft	JDK2000-002	5511

7590 09/20/2004

J.B.KRAFT  
710 COLORADO ST.  
SUITE 5C  
AUSTIN, TX 87701

EXAMINER

NGUYEN, NGA B

ART UNIT PAPER NUMBER

3628

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/785,757	<b>Applicant(s)</b> KRAFT, JOSHUA DICKINSON	
	<b>Examiner</b> Nga B. Nguyen	<b>Art Unit</b> 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 February 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This Office Action is the answer to the communication filed on February 20, 2001, which paper has been placed of record in the file.
2. Claims 1-5 are pending in this application.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Birrell et al (hereinafter Birrell), U.S. Patent No. 6,332,175.

Regarding to claims 1-2, Birrell discloses a portable audio system comprising: a housing (figure 1, a portable audio player 100) including:

a hard disk drive having at least 4 gigabytes of storage capacity (figure 1, hard disk 104; column 4, lines 38-43);

a plurality of music titles stored on said hard disk drive as MP3 compressed digital data (column 4, lines 65);

at least one pair of headphones or another audio output device (column 4, lines 22-25);

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means for decompressing said digital data (column 4, lines 30-37; the processing unit 102 decompresses digital data);

means for driving said headphones with said decompressed data to thereby present the music of said music titles (column 4, lines 22-25, an audio output jack 130 delivers analog audio signal to a pair of headphones); and

means for manually carrying said housing while said music is being presented (column 1, lines 10-23, the portable audio player is physically carried by the user and allows the user to listen to audio data).

Birrell discloses the hard disk drive having at least 4 gigabytes instead of 10 gigabytes. However, extending the storage capacity of a hard drive is well known in the art. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Birrell's by replacing the hard disk with larger storage capacity of at least 10 gigabytes for the purpose of extending the storage capacity of a hard drive, thus enabling the user can stores larger amount of MP3 compressed audio data in the portable audio player for playing back.

Moreover, Birrell discloses a pair of headphones instead of a pair of USB speakers. However, integrating speakers in a portable device is well known in the art. For example, speakers in portable radio, portable radio cassette, laptop, PDA, cellular phone, etc...Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Birrell's by replacing the headphones by speakers for the purpose of providing more convenient to the user when listening to

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music, because it's free the user from wearing the headphones which sometimes cause inconvenient to the user.

Regarding to claim 3, Birrell discloses wherein said housing further includes means for converting said decompressed digital data to analog data (figure 1, a digital to analog data converter 126; column 4, lines 30-37); and wherein said means for driving said speakers drive said speakers with said analog data (figure 1, an audio output jack 130; column 4, lines 22-25).

Regarding to claim 4, Birrell discloses wherein said housing further includes: a system memory (figure 1, RAM 108, Compressed Audio Data Buffer); and means for selectively accessing the data representative of a music title from the hard drive and storing the accessed data in system memory during the audio presentation of said music title (column 5, lines 9-50).

Regarding to claim 5, Birrell discloses wherein said housing further includes: a portable rechargeable power supply (figure 1, Battery 122; column 4, lines 15-16).

### ***Conclusion***

5. Claims 1-5 are rejected.

6. The prior arts made of record and not relied upon is considered pertinent to applicant's disclosure:

Burrows (US 6,332,175) discloses a system and method for playing compressed audio data.

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Naim (US 6,694,200) discloses a portable device including a player capable of playing and recording digital data and a hard disk connected to the player for storing a relatively large capacity of digital data that can be transferred to and from the player. The hard disk is dedicated to the storage of digital data and program files for use with the player.

Bharat (US 6,577,735) discloses a system and method for backing-up data stored on a portable audio player.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (703) 306-2901. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (703) 308-0505.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-1113.

8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
C/o Technology Center 3600  
Washington, DC 20231

Or faxed to:

(703) 872-9326 (for formal communication intended for entry),

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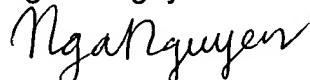
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or

(703) 308-3691 (for informal or draft communication, please label  
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal  
Drive, Arlington, VA, Seventh Floor (Receptionist).

Nga B. Nguyen



September 14, 2004